



To the CRB Work Group:

To increase oversight and review of police actions in our community, this work group has considered three general models used in other jurisdictions. These include an auditor/OIG model; an investigatory model; and a review model. The group's consensus at our last meeting was that Louisville Metro would be best served by a blend of the models, tailored to our particular laws and circumstances.

The Jefferson County Attorney's Office has reviewed the comments of this work group, the ordinance of the current Citizens Commission on Police Accountability (CCPA), language offered by Councilman Bill Hollander from his prior work on a proposed ordinance for an Office of Inspector General, and language offered by Councilwoman Paula McCraney from her prior work on a proposed amendment to the current CCPA. The current version of the draft ordinance is attached for your review.

The draft is a combination of all three models reviewed by the work group. It currently envisions an OIG who serves as staff to the volunteer board, conducting complaint investigations agreed upon by the Board. The Board would also assume the review duties of the current CCPA. In addition to investigating specific complaints, the OIG would have the authority to conduct operational-type audits of police policies, practices and processes.

You will note several places with blanks, and many information bubbles on the side of the draft posing questions for discussion by the group at the session on Friday July 10. Questions are posed for your consideration and input on all manner of diverse topics including but not limited to: the number of board members, the terms of service for board members and the OIG, qualifications for these positions, the types of complaints the board receives, and the name of the board. Please give some thought to these discussion points and questions before the Friday session.

After the meeting, we will distribute electronically a questionnaire to solicit information on some of the specific questions in the draft, and any additional feedback you may wish to provide. To facilitate the goal of making a revised draft publicly available on the work group website by Friday July 17, we ask that you please email your responses by close of business on Monday July 13.

Thank you again for your service on this important work group.

Councilwoman Paula McCraney

Deputy Mayor Ellen Hesen

ORDINANCE NO. _____, SERIES 2020

**AN ORDINANCE CREATING THE OFFICE OF POLICE INSPECTOR GENERAL AND
EXPANDING THE ROLE OF THE CITIZENS COMMISSION ON POLICE
ACCOUNTABILITY**

SPONSORED BY: TBD

WHEREAS, the creation of the Metro Louisville/Jefferson County's civilian-led independent police inspector general recognizes the need to have effective policing and a police department that has the faith, trust, respect, and support of the community; and

WHEREAS, effective policing that aligns with Metro Louisville/Jefferson County's community values, needs, and expectations has been an ongoing goal; and

WHEREAS, Louisville Metro Council seeks to involve citizens in reviewing more than just closed cases of police involved shootings; and

WHEREAS, Louisville Metro Council wants to create by law a comprehensive and sustainable independent oversight system that guarantees a police department that has the trust and confidence of the community and respects the constitutional rights of the people of Metro Louisville/Jefferson County.

Commented [LA1]: These opening statements are the rationales that council members draft to explain why laws are being created. These are based upon past drafts by Council members McCraney and Hollander, and will be further edited by Metro Council for this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("THE COUNCIL") AS FOLLOWS:

SECTION I. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Definitions. For the purpose of Chapter 36 of the Louisville Metro Code of Ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Definitions: If any are needed for OIG / citizens review.

Commented [LA2]: Section 1 is typically reserved for definitions, but this section will be deleted if no definitions emerge from future drafts. At this point in drafting, none are needed yet.

SECTION II. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Establishment of the Office of Inspector General.

(A) There is hereby established an Office of Inspector General of Louisville Metro Police Department to perform the functions and responsibilities established in this subchapter.

(B) Office of Inspector General of Louisville Metro Police Department shall be separate from any other agency or department of Louisville/Jefferson County Metro Government.

(C) The office shall be provided a separate budget sufficient to carry out the responsibilities and functions established in this subchapter.

(D) The Inspector General appointed under Section IV of this Act shall establish the internal organization of the office and shall divide it into such divisions as deemed necessary to perform the functions, powers, and duties of the office. The Inspector

General shall have the power to appoint, employ, and remove personnel as deemed necessary for the efficient and effective administration of the affairs of the office, and to contract with outside experts and consultants as needed.

SECTION III. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Qualifications for Inspector General.

The Inspector General must have law enforcement experience. The Inspector General cannot have a current or past affiliation with the Louisville Metro Police Department ("LMPD"). Candidates with work experience in auditing, financial analysis, law, management analysis, public administration, investigations, or other relevant fields are preferable.

Commented [LA3]: DISCUSSION POINT: Generally, when these offices are set up in other cities, Inspectors General have law enforcement experience but not in the city where they serve as IG. Do you think law enforcement experience should be required?

For preferable work experience outside of law enforcement, this is a sample list. Do you have other ideas about qualifications an IG should have?

SECTION IV. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Appointment and term of Inspector General

(A) The Inspector General shall be appointed by the Mayor and approved by the Council.

Commented [LA4]: KRS 67C.139 requires appointment by the Mayor and permits approval by the Council.

(B) The Inspector General's term of office shall be _____ years, and the Inspector General may be reappointed to successive terms.

Commented [LA5]: DISCUSSION POINT: Should the Inspector General have a contract for a set period of years, with removal under Section V of this Act? Or serve as an at-will employee, who could resign or be removed at any time?

A contract for set period and with specified grounds for removal offers more independence for the IG. An at will employee provides more flexibility for a change by Metro Government.

(C) The Inspector General shall receive a salary, subject to applicable ordinances and resolutions concerning classification and compensation of Metro Government employees.

If the IG serves for a period of years, how long should the term be? If the length is too short, the IG may not have time to develop the office. If the length is too long, the IG may not be as responsive to the citizens review board, the community, or elected officials.

(D) The Inspector General shall be required to take the same oath of office as is required by the Mayor and members of the Council before performing official duties.

SECTION V. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Removal of Inspector General; vacancy

(A) The Inspector General may only be removed by the Mayor and with an affirmative vote by a majority of Metro Council members, after a finding that the Inspector General has:

(1) failed to perform the duties outlined in this subchapter;

(2) been convicted of a criminal act;

(3) committed misconduct or malfeasance in office that undermines the credibility of the Inspector General or hinders their ability to perform their duties; or

(4) demonstrated a pattern of incompetence and lack of fitness for the position.

(B) If a vacancy occurs in the Office of Inspector General, an Inspector General shall, within ___ days, be appointed by the Mayor. If less than ___ year remains in the term of the outgoing Inspector General, the interim appointee shall serve until the end of the term. If more than ___ year remains in the term of the outgoing Inspector General, the interim appointee shall serve until a new Inspector General is found under the process established in Section III of this Act.

Commented [LA6]: Mayor and Council are both involved in appointing IG; both should be involved in findings to remove.

Commented [LA7]: DISCUSSION POINT: These are suggested grounds for removal. Should other grounds be considered?

Commented [LA8]: This period should be long enough to allow Mayor to identify a qualified interim appointee, but not so long that the work of the office is hampered.

DISCUSSION POINT: Should the interim appointee serve until the remainder of the term, no matter how much time remains? Or should the decision be based on the time left?

SECTION VI. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Powers and duties of Inspector General

(A) The Inspector General may:

- (1) Examine patterns and practices within LMPD;
- (2) Review policies, procedures, and operations within LMPD;
- (3) Conduct operational audits of LMPD;
- (4) Provide recommendations on improving operations to LMPD, the Mayor,

and Metro Council;

- (5) Investigate complaints as determined under Section VII of this Act; and
- (6) Conduct other operations as needed to carry out the requirements of this

subchapter.

(B) The Office of Inspector General shall adopt rules and regulations that guide the functions and processes conducted by the Office of Inspector General that are not inconsistent with state or local laws, Louisville Metro Government Personnel Policies, or LMPD collective bargaining agreements.

(C) The Inspector General shall take appropriate steps to build public awareness of the Office of Inspector General and of all procedures established by the Inspector General for receiving complaints.

(D) (1) To the extent permissible by law, all officers and employees of Louisville/Jefferson County Metro Government shall cooperate with and furnish the Office of Inspector General unrestricted access to employees, documents, records, and any other information necessary to assist in carrying out his duties under this subchapter.

(2) The Inspector General shall report to the Mayor and Council, in writing, of any failure by an officer or employee to cooperate with the Inspector General's requests.

Commented [LA9]: DISCUSSION POINT: Are there other areas of review that you would suggest that the IG have the ability to engage in? Or areas that should be removed from this section? We have included areas identified by the group for IG review, and areas reviewed by IGs from other cities.

Commented [LA10]: Should the IG independently initiate the reviews listed here, with citizens review board oversight as the reviews progress? Should the Mayor, Metro Council, or the citizens review board be able to mandate that the IG conduct reviews of LMPD operations and procedures?

Commented [LA11]: See discussion points in that Section for investigation-specific questions.

Commented [LA12]: Potential inconsistencies that have been identified and are being researched by the County Attorney's Office:

- Will the IG have subpoena power, which is dependent on a change in state law?
- Do the state Open Records laws or KRS 17.150 limit any of the documents available to the IG?
- Does KRS 67C.326, known as the Police Bill of Rights, limit whether the IG may simultaneously investigate misconduct alongside the LMPD Professional Standards Unit and the Public Integrity Unit?

Legal research into these areas is ongoing.

Commented [LA13]: See comment immediately above. Grant of subpoena power from General Assembly would affect this and other powers in this section.

Disciplinary action may be taken in accordance with personnel policies by the appointing authority and under applicable law.

(E) The Office of Inspector General shall not publicly disclose any information received during an investigation that is considered proprietary or confidential in nature under any local, state or federal law or regulation.

SECTION VII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Investigations by the Inspector General

(A) Pursuant to paragraph (B) of this section, the Inspector General shall have the authority to investigate any alleged incident involving any member of the Louisville Metro Police Department and:

- (1) The serious injury or death of any individual in police custody;
- (2) The serious injury or death of any individual resulting from police action;
- (3) Abuse of police authority;
- (4) Excessive use of force;
- (5) Discrimination; or
- (6) Sexual misconduct.

(B) (1) The Inspector General shall gather complaints as specified in paragraph (A) of this section and related to LMPD through:

- a) The LMPD Professional Standards Unit and the Public Integrity Unit;
- b) The Metro Ethics Tipline;

Commented [LA14]: DISCUSSION POINT: These are specific ideas for areas that the IG could investigate. Should these areas be expanded or narrowed?

- c) The Metro Internal Auditor's Office;
- d) Direct reference of complaints to the OIG from citizens or from other

Metro offices and departments;

(2) The Inspector General shall do an initial screening and prioritization of complaints, and present written recommendations regarding the complaints to the [CRB name to come] under the procedures established in Section XVI of this Act.

Commented [LA15]: How will the IG and the citizens review board interact? This is one suggested work flow. Please see further comments in the body of Section XVI.

(3) After presentation to the [CRB], the Inspector General may initiate investigations, or may be mandated to investigate by:

Commented [LA16]: DISCUSSION POINT: Should approval by the CRB be required before the IG can initiate an investigation or review patterns and practices? Should the Mayor or Metro Council, with oversight by the CRB, be able to mandate an investigation?

- (a) The [CRB] under the process established in Sec. XVII of this Act;
- (b) The Mayor; or
- (c) A majority vote of the Metro Council.

(C) In conducting investigations, the Inspector General shall have the power to issue subpoenas, administer oaths, and compel testimony as provided in KRS ###.###.

Commented [LA17]: The power granted to Metro Council's Govt Oversight and Audit Committee in KRS 67C.103 can only be delegated to the Ethics Commission for potential violations and enforcement of the ethics code, and cannot be shared with an Inspector General or the citizens review board.

(D) Upon the conclusion of an investigation, the IG shall have the authority to refer investigations to the Professional Standards Unit, the Public Integrity Unit, the Commonwealth Attorney, the County Attorney, or other appropriate bodies based on the results of the investigation and the judgment of the Inspector General.

Subpoena power is dependent on a grant of the power from General Assembly. See 6-1-20 memo to the workgroup.

SECTION VIII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Reports by Inspector General

(A) With respect to any investigation, the OIG shall provide information on the progress of investigations to the [CRB] upon the request of the chair of the board.

(B) The OIG shall provide a written report upon the conclusion of each investigation conducted under Section VII of this Act to Mayor, Metro Council, and [CRB]. The reports shall provide a detailed account of the alleged misconduct, the investigative findings of fact, conclusions reached, and any recommendations to assist in the promotion of accountability and integrity of LMPD.

(C) For reviews other than investigations, the OIG shall make available for public viewing a report of any inspection or evaluation, except that any sensitive or confidential information must be redacted as required by law.

(D) The Office of Inspector General shall prepare and submit an annual report to the Mayor and Metro Council within 30 days after the end of each calendar year concerning the Office's activities, investigations, major observations, recommendations, and actions taken during the preceding year.

Section IX. Abolishment of the Citizens Commission on Police Accountability to Create New Citizens Review Board.

The Citizens Commission on Police Accountability created pursuant to LMCO 36.50 and 36.51 is hereby abolished. LMCO Sections 36.50 and 36.51 are hereby repealed in their entirety. All authority previously vested in the Citizens Commission on Police Accountability shall now be vested in the _____, created pursuant to Sections 36.XX-36.XX. Any records of the Citizens Commission on Police Accountability shall be transferred to the _____.

Commented [LA18]: DISCUSSION POINT: Should the citizens review board continue to review "police investigations in all police shooting cases and incidents involving loss of life due to police action" after criminal investigations are closed?

Commented [LA19]: DECISION POINT: Will the IG's office serve as staff to the citizens review board? Currently, the Criminal Justice Commission is staff to the existing CCPA.

Section X. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Establishment of the [CRB name _____]

There is hereby established a _____ for Louisville/Jefferson County Metro Government for the purpose of increasing citizen involvement in the investigation and review of allegations of police misconduct.

Commented [HH20]: Consider what this body should be named. It may be a cleaner start to give it a totally new name and one that includes the word “review” given the public discussion on a citizen’s review board. For purposes of this draft, we have simply used [CRB] as a placeholder. Other words that might be included are “civilian,” “citizen,” “oversight,” and “accountability.”

SECTION XI. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Appointment; Term; Leadership of the [CRB]

(A) The Mayor shall appoint _____ members to the [CRB], which shall be subject to approval by Metro Council. _____ appointments shall be at the Mayor’s discretion. _____ appointments shall come from a list submitted to the mayor by Metro Council. _____ appointments to the [CRB] shall be drawn from among lists of nominees submitted from the following sources: _____

Commented [LA21]: There are currently 11 members of the CCPA. Should the new review board maintain this number of members? If you do not want to maintain an 11-member board, what is an effective number? Many boards opt to have an odd number of directors in order to avoid deadlock caused by a tie vote. The size of the board is important for quorum issues, especially in volunteer boards. The ideal size is manageable but large yet enough to have diversity.

(B) The initial terms of the [CRB] shall be as follows:

_____ members shall be appointed for a term of 1 year;

_____ members shall be appointed for a term of 2 years;

_____ members shall be appointed for a term of 3 years.

Commented [LA22]: KRS 67C.139 requires that appointments be made by Mayor and permits approval by Metro Council. However, given the citizen-focus of this board and the need for diverse voices, consider whether some of the names of appointees should come from community groups. Social justice advocacy groups? The business community? Educational groups? Religious groups? The legal community? Others?

At the expiration of an initial term, all new members shall be appointed for a term of _____ years.

Commented [LA23]: When boards are first created, initial terms are often of differing lengths for different members so expertise is not lost all at once. These term lengths are merely examples to demonstrate the initial board staggered terms, presuming a term length for a fully constituted board would be 3 years.

Commented [LA24]: Members should have a term long enough to gain familiarity with the work, but not so long as to discourage volunteer members.

Members may serve _____ consecutive terms. Members who have rotated off the board may be considered for **reappointment** no sooner than _____ years from the expiration of their final consecutive term.

Commented [HH25]: DISCUSSION POINT – do you want a hard limit on how many terms members can serve? Do you want someone to be able to serve again if they are off for an interval?

(C) The members shall elect by majority vote one member to serve as Chair and one member to serve as Vice Chair for terms of _____ year. No member may serve more than _____ consecutive terms as Chair, and no member may serve more than _____ consecutive terms as Vice Chair.

Commented [LA26]: How should leaders of the citizens review board be chosen? How long should they serve as leaders? Should there be a limit on how long a member may serve as leader? Many boards require an annual selection, others may have longer terms.

(D) Members shall serve **without compensation**, but shall be eligible for expense reimbursement.

Commented [LA27]: Generally citizen boards are volunteer boards, like the existing CCPA.

SECTION XII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Removal of [CRB] members.

A member of the [CRB] may be removed as follows:

Commented [HH28]: DISCUSSION POINT
On what grounds should a member of the citizens review board be removed? Should missing a certain number of consecutive meetings be grounds for removal? Failure to meet the qualifications set out in the next section? Neglect and misconduct in office?

Because appointments involve both Mayor and Council, a removal decision will involve both bodies so one body does not have complete control.

SECTION XIII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Qualifications for nomination and membership to [CRB]

The following qualifications are required for service on the [CRB]:

(A) Persons must have resided in Jefferson County for a minimum of [] years prior to joining the [CRB], and must remain continuously domiciled within Jefferson County for the duration of their term.

Commented [LA29]: How long should people live in the community before they are eligible for the board? Should the members be registered to vote in Jefferson County?

(B) Current Metro employees shall not be eligible to serve on the board.

Commented [LA30]: DISCUSSION POINT: What about former Metro government employees? Their families? LMPD? Former LMPD? Former LMPD families?

(C) Nominees are subject to a state criminal background check, and individuals with a felony conviction shall not be eligible to serve.

Commented [LA31]: Is this a qualification that you want on board membership? In some jurisdictions felons are not eligible to serve on the board. Should it depend on the crime, or the number of years since the crime was committed? What about misdemeanors?

(D) All board members shall attend and successfully complete the training required in Section XV of this Act.

Commented [LA32]: See subsequent sections for suggestions regarding training requirements.

(E) Appointees are subject to ethics requirements as follows
_____.

Commented [LA33]: Metro Code has ethics requirements under Chapter 21 of the LMCO that many Metro boards and commissions follow.

(F) Appointees must sign and adhere to a confidentiality agreement.

SECTION XIV. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Training for [CRB] board members

The following training shall be required before any appointee may serve on the board:

Academy Core Workshops (Two 8-Hour Days)

Commented [LA34]: DISCUSSION POINT: This draft contemplates two 8-hour days for volunteer board members to train. What topics should be included in training? Should continuing education and training be required? How many hours?

Two 8-Hour Days of Training

These two days of training would include workshops and activities:

Commented [LA35]: It is envisioned that the Criminal Justice Commission would organize and staff the training.

Core Workshops covering the following topics:

LMPD Policies and Procedures / Officer Bill of Rights
Laws of Arrest, Search and Seizure
Response to Resistance / Defensive Tactics
De-escalation / Use of Force
Criminal Investigations
Internal Affairs / Public Integrity Unit
Implicit Bias Training
Complaint Process
Warrants
Police Records, Crime Reporting, Property Control
Investigative and Disciplinary Processes
Police Recruitment
Crime Commission / Merit Board
Body Camera Requirements
No-Knock Warrants Ordinance

Basic Training:

Simulation Firearms Training

Elective Activities (each member may choose one):

Attend a Synergy or Police Community Meeting
Tour of LMPD Headquarters
Tour of Jail
Attend Roll Call

Outside the 2- 8 hour days, but also required, are **patrol ride-alongs**
A minimum 4-hour day shift and a minimum 4-hour night shift

Board members may schedule these ride-alongs in increments (e.g. two 2-hour day sessions and two 2-hour night sessions)

SECTION XV. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Meetings of the [CRB]

The Board shall conduct at least ____ regularly scheduled meetings per month, and at the call of the chair, in compliance with Kentucky open meetings laws.

Commented [HRJ36]: How often is it necessary for the CRB to meet? Once per month and upon the call of the chair? The level of responsibility given to the board would first need to be established and then the parameters and quantity of meetings could be established. Also, should the CRB be open to public comment, or will that be left up to the board?

SECTION XVI. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. [CRB] Powers and Duties

DISCUSSION POINT for work group:

Because CRB is a volunteer board, and Inspector General is a paid employee with staff and a budget, it seems that the OIG office should be the place where complaints are gathered (see sample language in Section VII, subsection (B) of this rough draft)

The OIG could make the board aware of all complaints from multiple sources, and could propose cases which the OIG believes need further attention, but the board could select the work for OIG by majority vote.

(1) Establish a process for evaluating whether an alleged incident merits an Inspector General investigation which shall include, but not be limited to, an initial determination as the sufficiency of the information to warrant a formal investigation;

(3) Determine by majority vote whether to require an Inspector General investigation into any incident;

(4) Review any investigations conducted by the Inspector General;

(5) Review closed internal police investigations into police shooting cases and incidents involving loss of life due to police action, but, if a criminal investigation is involved, it shall not review the incident until the criminal investigation is closed; and

(6) Advise the Mayor, Metro Council and the Chief of Police on matters relating to the quality and adequacy of internal police investigations and investigations by the Inspector General, and recommend any needed changes in policy, training, and procedures as a result of its reviews.

Commented [LA37]: Subsections (5) and (6) are from the current CCPA duties. Do you want the CRB to continue to perform these functions in addition to the incident investigation role and oversight of IG?

Commented [HRJ38]: Again, it should be considered as to whether this is a responsibility you want the CRB to have and in what format.

SECTION XVII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Investigation Reports from The Inspector General.

The Inspector General shall make confidential reports to the Board of all instances in which the OIG has initiated an investigation. The OIG shall be required to make periodic reports to the Board concerning any ongoing investigations initiated at the direction of the Board. The OIG shall notify the Board of any investigations not initiated by the Board including the basis for such investigations.

Commented [HRJ39]: This will need to be spelled out more in depth in this section and in the procedural sections above, based on work group recommendations.

SECTION XVIII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Reports to Mayor and Council.

The Board shall report quarterly to the Mayor and Metro Council. Such report shall address community outreach efforts, agency progress and initiatives, status of ongoing investigations, and any of the Board's issues or concerns.

Commented [HRJ40]: How often should the board report and in what format? What issues should they be required to address?

SECTION XIX. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Annual Reports

The Board shall prepare and submit an annual report to the Mayor and Metro Council within 30 days after the end of each calendar year concerning the Office's activities, investigations, major observations, recommendations, and actions taken during the preceding year.

SECTION XX: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:
Michael J. O'Connell
Jefferson County Attorney

BY: _____

DRAFT